

PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Patent Application of Baumöller <i>et al.</i>	: Group Art Unit: 1731
Appln. No.:	09913,378	: Examiner: Peter Chin
Filed:	February 4, 2000	:
For:	USE OF EMULSIONS AS IMPREGNATING AGENTS AND REVIVING AGENTS	: Attorney Docket No.: H 3954 US

DECLARATION OF ROLF KAWA UNDER 37 C.F.R. §1.132

I, Rolf Kawa, declare and state as follows:

1. I am the same Rolf Kawa who is a co-inventor and co-applicant in the above-identified patent application. I am at least a co-inventor of all of the presently pending claims.
2. From 1975 until 1977, I studied engineering science at the technical college in Muehlheim.
3. From 1977 until 1999 I was employed by Henkel KGaA as a Technical application technology in the areas of cosmetic raw materials. In my employment with Henkel KGaA, I was engaged in the research and development as well as in the application evaluation of new raw materials for skin care. Since 1999, and continuing to the present, I have been employed by Cognis GmbH, formerly part of Henkel KGaA, as Technical Manager. In my capacity as Technical Manager, I continue to engage in the research, development and application of raw materials for skin care.
4. I have reviewed the decision from the USPTO Patent Board of Appeals dated August 10, 2005. This Declaration has been prepared to address the arguments made by the Board of Appeals that the data presented therein was "not commensurate in scope with the degree of protection sought by the claimed subject matter."



5. In order to support the scope of the claimed invention, I have conducted additional experiments, which demonstrates that emulsions according to the invention, which comprise a polyol – poly-12-hydroxystearate other than a polyglyceryl-2-dipolyhydroxystearate also surprisingly solve the problem underlying the present invention.

6. The following additional emulsion (example No.6) was prepared, wherein the Polyglyceryl-2-Dipolyhydroxystearate (Cognis tradename: Dehymuls PGPH<sup>®</sup>) in example 5 was exchanged by Polyethylenglycol-30-Dipolyhydroxystearate acid (Cognis tradename Dehymuls LE<sup>®</sup>). The performance of this emulsion was evaluated using the following protocol (identical to the protocol in the specification): commercially available three-ply tissue papers with a recycled paper content of 95% and a weight of 18 g/m<sup>2</sup> were treated with emulsion 6 and with the two comparison compositions C1 and C2 (identical to comparison composition as in specification) in quantities of 2.5 g/m<sup>2</sup>. The papers were then dried for 30 minutes at 30°C, after which their softness was evaluated by a panel of six experienced testers on a scale of (+++) very soft to (+) hard. The sensorial feeling on touching the tissues was also evaluated. The results which represent the averages of three test series are set out in Table 2.

**Table 2**  
**Softness of tissue papers using emulsions**

Composition / Performance	6	C1	C2
PEG-30-Dipolyhydroxystearate (Dehymuls LE <sup>®</sup> , Cognis)	10,0	-	-
Glyceryl Oleate	-	8,0	10,0
Oleyl Erucate	55,0	60,0	65,0
Candelila Wax	-	7,0	5,0
Bees Wax	5,0	-	-
Water	to 100		
<b>Softness</b>	+++	+	+
<b>Sensorial evaluation</b>	moist	flat	flat




7. The results of composition 6 in table 2 demonstrate that a process for making paper substrates having a soft feel can be conducted by using emulsions containing (i) a polyol -poly 12-hydroxystearate, (ii) a wax ester and (iii) a wax. It has been demonstrated that the polyol component of (i) can be either a polyglycerin, as in examples 1 to 5 of the specification (polyglyceryl-poly-12-hydroxystearate) or a polyethyleneglycol (see example 6 submitted with this declaration).

8. I respectfully submit that the data, as a whole, is commensurate in scope with the claimed invention, and that the data is, in fact, representative of the polyol component of the present claims.

9. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

7.10.2005

(Date)

  
ROLF KAWA